

*Wilson v. New York and Presbyterian Hospital d/b/a New York-Presbyterian Hospital,
No. 17 Civ. 5012 (RMM) (CLP)*

**Declaration of Adriana S. Kosovych
in Support of Defendant's Motion for Summary Judgment**

EXHIBIT 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL WILSON,

Plaintiff,

-against-

NEW YORK AND PRESBYTERIAN
HOSPITAL,

Defendant.

: 17-CV-05012 (RRM)
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: United States Courthouse
: Brooklyn, New York
:
:
: Thursday, October 24, 2019
: 12:00 p.m.
:
:
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TRANSCRIPT OF CIVIL CAUSE FOR PRE-MOTION CONFERENCE
BEFORE THE HONORABLE ROSLYNN R. MAUSKOPF
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Plaintiff: GILBERT LAW GROUP
425 Broadhollow Road
Suite 405
Melville, New York 11747-3609
BY: JASON E. GILBERT, ESQ.

For the Defendant: EPSTEIN BECKER & GREEN, P.C.
250 Park Avenue
New York, New York 10177
BY: ADRIANA STEFANIE KOSOVYCH, ESQ.

Court Reporter: VICTORIA A. TORRES BUTLER, CRR
225 Cadman Plaza East / Brooklyn, NY 11201
VButlerRPR@aol.com

Proceedings recorded by mechanical stenography, transcript
produced by Computer-Assisted Transcription.

Proceedings

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1 MR. GILBERT: Yes.

2 THE COURT: Does that mean that you are no longer
3 pressing your Fair Labor Standards Act claim?

4 MR. GILBERT: Yes and no, Your Honor.

5 So through the course of discovery, the parties
6 worked to narrow the issues. It was acknowledged during
7 depositions and through the course of discovery that there's
8 no overtime owed to my client; however -- as well as the
9 issues surrounding his classification, it came to light that
10 he was originally misclassified but that issue was remedied.
11 However, for reporting his misclassification and as a result
12 of him being paid overtime retroactively, he was subjected to
13 retaliation, harassment. And so that aspect of our FLSA claim
14 remains ripe.

15 THE COURT: Okay. So stop right there.

16 So what I just heard you say is that there are --
17 you are no longer pressing Fair Labor Standards Act wage
18 claims; correct?

19 MR. GILBERT: That's correct.

20 THE COURT: And what about New York Labor Law wage
21 claims? Those, I assume, were resolved; right?

22 MR. GILBERT: Yes, with the exception of
23 retaliation.

24 THE COURT: I am talking about the wage claim.
25 Those are claims one and three.

Proceedings

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1 MR. GILBERT: Yes.

2 THE COURT: So are you moving to dismiss those?

3 It is not going to hurt your retaliation claim. I
4 understand you are claiming your client is claiming
5 retaliation for reporting wage issues.

6 MR. GILBERT: Yes, that is correct.

7 And yes, I am willing to dismiss unpaid wage claims.

8 THE COURT: Both under the Fair Labor Standards Act
9 and under the New York Labor Law?

10 MR. GILBERT: That's correct.

11 THE COURT: Okay. Great. That means we do not need
12 motion practice on that.

13 And while we are sort of narrowing things down,
14 there are Labor Law wage notice claims. Are those still in
15 play?

16 MR. GILBERT: No, Your Honor.

17 THE COURT: Okay. Great. So that is claim four, I
18 think.

19 MR. GILBERT: Correct.

20 THE COURT: Okay. So one, three and four we have
21 disposed of. Let me just see what else there is.

22 Okay. So go on with your story. So he reports
23 misclassification and claims he is owed overtime; right?

24 MR. GILBERT: Correct.

25 THE COURT: And then what happens?